

REMARKS

Claims 1-12 are pending of which claims 1, 6, 8, 11 and 12 are independent.

Rejections of Claims Under 35 U.S.C. § 102

Claims 1-3 and 5-12 were rejected under 35 U.S.C. §102(e) as being anticipated by Hatta et al. (U.S. Publication No. 2005/0117948, hereinafter “Hatta”).

Applicants respectfully traverse the above rejection under 35 U.S.C. §102(e).

Although Applicants disagree that the claimed invention is anticipated by Hatta, to expedite prosecution of the Application, Applicants submit that Hatta cannot be properly applied against the present Application under 35 U.S.C. § 102(e).

As a preliminary matter, if an international application was filed on or after November 29, 2000, but was not published in English under PCT Art. 21(2), U.S. filing date of the international application, not the international filing date, is treated as a U.S. filing date for 35 U.S.C. §102(e) prior art purposes.

The international application of Hatta was filed on July 23, 2002 claiming priority to Japanese Patent Applications 2001-222189 and 2001-222190 filed on July 23, 2001 and the U.S. national phase application was filed on January 24, 2005. The international application of Hatta was **published in Japanese** on February 6, 2003. Thus, Hatta’s filing date is January 24, 2005, the U.S. national phase filing date, for 102(e) prior art purposes. On the other hand, the present application was filed on July 16, 2003 claiming priority to the Japanese Patent Applications 2002-219477 and 2002-219553 filed in Japan on July 29, 2002. Therefore, Hatta is not proper 35 U.S.C. §102(e) prior art against the present application, since the filing date of the present application is prior to the Hatta’s U.S. national phase filing date. Accordingly, the rejection is not

legally viable and the Examiner is requested to reconsider and withdraw the rejections of claims 1-3 and 5-12.

Rejections of Claims Under 35 U.S.C. § 103

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Hatta.

As addressed above, Hatta is improperly applied against the present application. Accordingly, the rejection is not legally viable and the Examiner is requested to reconsider and withdraw the rejections of claim 4.

Conclusion

Upon entry of the above claim amendments, claims 1-12 remain active in this application. Applicant submits that all of the claims are in condition for allowance. Accordingly, this case should now be ready to pass to issue; and Applicant respectfully requests a prompt favorable reconsideration of this matter.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,
McDERMOTT WILL & EMERY LLP



Hosang Lee
Limited Recognition No. L00,295
**Please recognize our Customer No. 20277
as our correspondence address.**

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:HL:lcb
Facsimile: 202.756.8087
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